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January 27, 2014

Secretary Matt Rodriquez  
California Environmental Protection Agency  
1001 I St.  
Sacramento, CA 95814

Secretary Diana Dooley  
California Health and Human Services Agency  
1600 Ninth St.  
Sacramento, CA 95814

### **RE: Drinking Water Program Reorganization Priorities**

Dear Secretaries Rodriquez and Dooley,

The organizations listed above participated in the Reorganization Task Force convened last fall to review and consider issues related to the transfer of the Drinking Water Program from the California Department of Public Health to the State Water Resource Control Board (Board). We applaud the Administration's efforts in bringing together a diverse set of stakeholders to participate in that process and appreciate your leadership in assembling and directing a strong multi-agency transition team.

We believe staff did an excellent job of reflecting our feedback in the *Summary of Input* prepared for this month's workshop at the State Water Board. We would also refer staff to the three reports prepared for the administration by the Governor's Drinking Water Stakeholder Group, as well as the State Water Board's Nitrate Report and Recommendations submitted to the legislature in March of 2013, for a list of actions that can be undertaken. Many of us have collaborated for years to elevate the issues that vulnerable communities in California face in accessing clean drinking water and wastewater resources. This transition provides an opportunity to organize staff and resources in a way that increases the ability of these communities to access the assistance they need. As we stated during the process, our priorities are as follows:

- Promoting shared solutions – including but not limited to regional management and consolidation – that allow small disadvantaged communities to achieve safe, affordable and sustainable drinking water and wastewater services;
- Developing a one-stop shop for technical assistance that allows communities to access help for drinking water *and* wastewater needs;
- Improving oversight of Californians not served by public water systems, including those served by domestic wells;
- Developing a comprehensive Source Water Protection program that uses the combined resources of the Board and the Drinking Water Program to proactively protect drinking water sources; and,
- Addressing – through regional solutions and other means – the affordability of drinking water and wastewater services for low income Californians

We would like to take this opportunity to provide more detail on how we think these priorities could be addressed through the transition process.

### **Shared Solution/Technical Assistance**

Small disadvantaged communities face many barriers in achieving safe drinking water, but two fundamental problems they share are a lack of the technical expertise – legal, financial, planning, engineering – necessary to run a modern water system, and a rate base that is insufficient to pay the continuing cost of operating and maintaining that system. Sustainable and affordable drinking water and wastewater services is simply out of reach for residents in small, disadvantaged communities. Furthermore, the ongoing need for assistance and oversight of small systems by state and local agencies is a drain on local treasuries and on taxpayers.

The size and scope of this problem requires focused attention rather than the checkbox approach of the past. Our organizations recommend establishing a consolidation team with broad expertise (planning, legal financial, engineering) that can identify and facilitate opportunities for shared solutions. We suggest a 6PY team that includes financial, legal, planning, project management, public engagement and engineering backgrounds. Establishing this team within the Division of Financial Assistance would allow the team to look at water services comprehensively – both drinking water and wastewater services. Funding from both the Clean Water and Safe Drinking Water State Revolving Funds, supplemented as appropriate and available with other funding sources, could be used to establish and maintain this team. The team could be tasked with:

- Administering Pre-Planning grants;
- Identifying and assessing opportunities for shared solutions, such as physical consolidation, managerial consolidation and extension of services;
- Provide technical assistance for all steps of a given process, from application through project implementation;
- Assessing and assisting in the development of consolidation options that are already required as part of SRF project and planning funding proposals;
- Coordinating with local entities (LAFCOs, Boards of Supervisors, District Engineers, County Health Officers and IRWMGs when appropriate) to identify and develop regional solutions, including the identification of systems that could be included in a regional planning discussion;
- Engage in outreach to small, disadvantaged communities that will benefit from this program;
- Providing ombudsman services for the duration of the consolidation process;
- Ensuring legal compliance of consolidation and service extension projects, including issues related to legal entity formation, water rights, Prop 218;
- Maintaining a list of interested and qualified agencies with experience in the provision of water service and a history of satisfactory operation of a water system, to take on receiverships;
- Assisting in development of regulations, programs and policies that promote shared solutions; and,
- Providing oversight of the Drinking Water Program’s Small Systems list, which could either be absorbed or shared with the Small Community Wastewater Grant Program.

It is critical that this team possess a diversity of technical expertise that can address the many and diverse issues connected with regional solutions.

### **Expanding Drinking Water Protections**

The Governor’s Drinking Water Stakeholder Group identified the lack of information about disadvantaged communities not served by a public water system as a major gap, and most recently submitted a paper to the Governor recommending actions to address that gap. We support those recommendations, but urge that they be expanded to include domestic wells. We think these recommendations could be implemented in short term:

- From the report:

- Inventory counties to determine what monitoring is currently required, and use that information to develop consistent monitoring requirements that include providing monitoring data to state databases;
- Ensure that communities served by a state or local small water system (2-14 connections) are provided with information about their water supply, including translation as needed and contact information for the regulatory agency; and,
- Create a web-based, searchable database for Well Completion Reports.
- Additional recommendations
  - Require testing of private wells upon resale of property, with data about water quality and well construction to be submitted to the GAMA database; and,
  - Develop a visible and robust web presence to provide small system and domestic well owners information and guidance about water quality testing, wellhead protection and advice on protecting water quality.

### **Source Water Protection**

The State Board's 2013 report, *Communities that Rely upon Contaminated Groundwater* found that 680 community water systems serving 21 million people rely on a contaminated groundwater at least partly as their water source and that an additional 2 million Californians rely on groundwater from either private domestic wells that are not regulated by the state and may have water quality issues. Given these findings, it is imperative that the Board prioritize protection of our drinking water sources, utilizing the combined expertise and information of the Board and the Drinking Water Program. We think a minimum first step is to determine, as part of the transition, how information from the two agencies can be combined to identify and prioritize threats to safe drinking water. Additionally, we urge the development of a source water protection webpage that provides information and links to source water protection information and guidance.

### **Drinking Water Affordability**

Tens of thousands of Californians pay exorbitant rates for their drinking and wastewater services. While the programs outlined above will address in part this lack of affordability, we believe that the state must make a commitment to develop and implement programs that will ensure safe and affordable drinking water and wastewater services to all Californians.

Many disadvantaged water systems, primarily those with contaminated drinking water supplies struggle to maintain affordable rates, and to support the operations and maintenance costs of providing safe drinking water. The Governor's proposed State Budget for 2014-2015 calls on the State Water Board, as part of the Water Action Plan, *Interim Replacement Drinking Water in Disadvantaged Communities* section to *engage with stakeholders and develop recommendations to establish a stable, long-term funding source for the operations and maintenance costs of providing safe drinking water for disadvantaged communities...* which we support. Due to the lack of O&M funding for communities and the growing urgency to protect residents, this effort should be expedited and the stakeholder group should be formed posthaste, preferably within 6 to 12 months of funding approval.

### **The Human Right to Water**

With the passage of AB 685 in 2012, California became one of the first states in the United States to recognize the human right to water. California now has a comprehensive law guaranteeing the right to safe, affordable water without discrimination, prioritizing water for personal and domestic use and delineating the responsibilities of public officials at the state level. AB 685 specifically charges relevant California agencies, including the Cal/EPA and California Health and Human Services Agency with fulfillment of the law's mandate by considering the human right to water in policy in transition process, and in all subsequent programming, and budgetary activities.

**Interim Solutions**

Disadvantaged communities often struggle to provide an adequate supply of safe, affordable drinking water. The Governor’s proposed State Budget for 2014-2015 calls on the State Water Board, as part of the Water Action Plan, *Interim Replacement Drinking Water in Disadvantaged Communities* section, to fund interim solutions, which we fully support. We provide the following recommendations in order make the funding more effective: Interim solutions should not only include replacement drinking water, but also fund the best proven technology available; cover technical assistance, so that communities are able to select the best alternative (s) for their situation; and cover O&M.

**Continued Stakeholder Engagement**

We appreciate the interest of the water agencies in having a continuing oversight role in the transition. In the interests of transparency and good government, we agree that this is a wise idea. We would ask that this stakeholder group remain focused on issues associated with the transition and not be viewed as a replacement for current Board advisory groups that focus on specific issues and programs.

Thank you for allowing us to participate in this process. We think this is a critically important program and process and look forward to a successful transition.

Sincerely,



Phoebe Sarah Seaton  
Executive Director  
*Reorganization Taskforce*  
*Member*  
Leadership Counsel for Justice  
and Accountability



Jennifer Clary  
Water Policy Analyst  
*Reorganization Taskforce*  
*Member*  
Clean Water Action



Laurel Firestone  
Co-Executive Director and  
Attorney at Law  
*Reorganization Taskforce*  
*Member*  
Community Water Center



Rebecca Crebbin-Coates,  
Water Campaign Manager  
*Reorganization Taskforce*  
*Member*  
Planning & Conservation  
League



Sergio Carranza,  
Executive Director,  
Pueblo Unido



Omar Carrillo  
Policy Analyst  
*Reorganization Taskforce Member*  
Community Water Center



Associate Director  
PolicyLink

**/s/ Noe Paramo**

California Rural  
Legal Assistance  
Foundation